

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1249**

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**Introduced by Senator Ducheny**

February 19, 2010

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An act to add Chapter 2.01 (commencing with Section 10490.10) to Part 2 of Division 2 of the Public Contract Code, relating to state contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1249, as amended, Ducheny. Contracting by state agencies: best value competitive bid contracts.

Existing law governs contracting between state agencies and private contractors, sets forth requirements for the bidding, awarding, and overseeing of contracts for construction projects, and regulates the awarding of contracts for the purchase of goods and services.

This bill would require competitive bid contracts for construction projects, including, but not limited to, projects of the California State University, contracts for goods and services, and contracts for information technology acquisition, to be awarded as best value competitive bid contracts, as defined, taking into consideration, when awarding the contract, the total direct and indirect economic benefit to the state of the proposed contract, as prescribed. This bill would authorize the Director of General Services to adopt regulations to assist state agencies in implementing these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. It is the intent of the Legislature to do both of the*  
2     *following:*

3     *(a) Require a contract entered into between the state and outside*  
4     *entities to reflect the true costs, both direct and indirect, of the*  
5     *contract to the state.*

6     *(b) Require the method established for calculating the actual*  
7     *cost of any contract entered into to include both direct and indirect*  
8     *economic benefits to the state through the employment of*  
9     *individuals or companies or both or the purchase of goods or*  
10    *services or both that generate revenues to the state, including*  
11    *personal or corporate, or both personal and corporate, income*  
12    *taxes, property taxes, or sales and use taxes.*

13    ~~SECTION 1.~~

14    *SEC. 2. Chapter 2.01 (commencing with Section 10490.10) is*  
15    *added to Part 2 of Division 2 of the Public Contract Code,*  
16    *immediately following Chapter 2 (commencing with Section*  
17    *10290), to read:*

18  
19    CHAPTER 2.01. BEST VALUE COMPETITIVE BID CONTRACTS  
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21    10490.10. (a) Notwithstanding any provision of law,  
22    ~~commencing the effective date of this chapter, January 1, 2011,~~  
23    every contract that would otherwise be required to be awarded on  
24    a competitive basis pursuant to Chapter 1 (commencing with  
25    Section 10100), Chapter 2 (commencing with Section 10290),  
26    Chapter 2.5 (commencing with Section 10700), ~~and~~ Chapter 3  
27    (commencing with Section 12100), *and any other applicable state*  
28    *statute governing state contracts*, shall be awarded, instead, as a  
29    best value competitive bid contract to the bid or proposal that  
30    presents the best overall value to the state.

31    (b) For purposes of this chapter “best value competitive bid  
32    contract” means a contract that is awarded on a competitive process  
33    that is not based merely on the lowest direct cost to the state under  
34    the contract, but rather is awarded to the bidder that presents the  
35    overall best value to the state after consideration of the total direct  
36    and indirect economic benefit to the state under the contract,  
37    including, but not limited to, all of the following:

1 (1) The direct cost of the contract, including, but not limited to,  
2 materials, goods, and services.

3 (2) Indirect value to the state generated by the contract,  
4 including, but not limited to, an analysis of the proposed contract  
5 to determine all of the following:

6 (A) (i) The total projected indirect revenue to the state generated  
7 by the wages that the contractor and subcontractors, if any, propose  
8 to pay their workers in performing under the contract.

9 (ii) The total projected indirect revenue to California local  
10 governments generated by the wages that the contractor and  
11 subcontractors, if any, propose to pay their workers in performing  
12 under the contract and the indirect revenue to the state generated  
13 thereby.

14 (B) (i) The total projected indirect revenue to the state generated  
15 from the goods and materials that the contractor and subcontractors,  
16 if any, propose to purchase or provide in performing under the  
17 contract.

18 (ii) The total projected indirect revenue to California local  
19 governments generated by the goods and materials that the  
20 contractor and subcontractors, if any, propose to purchase or deliver  
21 in performing under the contract and the indirect revenue to the  
22 state generated thereby.

23 (iii) The indirect economic benefit to the state generated by the  
24 economic activity related to the production of the goods and  
25 materials to be purchased or delivered under the contract.

26 (c) The Director of General Services shall adopt regulations  
27 that shall take effect immediately and are exempt from the  
28 rulemaking provisions of the Administrative Procedure Act to  
29 provide guidance to state agencies on best methods and practices  
30 and a related matrix to assist those agencies in determining the  
31 overall best value.

32 (d) In determining the overall economic benefit to the state of  
33 a proposed contract pursuant to this section, state agencies shall  
34 consider, to the extent not prohibited under federal law, the location  
35 where the wages are to be paid and the location where the products  
36 or materials are to be manufactured or produced.